

COPY

ILLINOIS COMMERCE COMMISSION

Village of Fox River Grove,)
Illinois,)

Petitioner,)

v.)

No. T01-0016

Union Pacific Railroad)
Company (UP), and the State of)
Illinois, Department of)
Transportation (IDOT),)

Respondents.)

Petition to 1) interconnect)
traffic signals to be)
installed at the intersection)
of U.S. Route 14 (Northwest)
Highway) and Foxmoor Road with)
the railroad warning devices)
at the Foxmoor Road at-grade)
crossing of the UP double)
mainline tracks in the Village)
of Fox River Grove;)
2) establish the amount of)
minimum preemption time)
provided by the UP to IDOT for)
the traffic signal preemption)
sequence at said intersection;)
3) provide a 6' wide sidewalk)
platform across the tracks;)
4) install the southeast side)
traffic presignals on a)
railroad signal cantilever.)

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MAY 2 2001

Illinois Commerce Commission
RAIL SAFETY SECTION

RESPONSE TO HEARING EXAMINER'S RULING

RECITALS:

On or about February 28, 2001, the Village of Fox River Grove, Illinois ("Village") filed its Petition in the above-referenced matter and the Illinois Commerce Commission ("Commission") . The Commission assigned it Docket No. T01-0016.

DOCKETED

On the **third page of the Petition**, the Village requested that a notice be issued directing the Union Pacific Railroad Company ("UP") to submit detailed estimates of costs, time frame, and general lay-out plans for the proposed project at least ten (10) days prior to the scheduled hearing.

A Notice of Hearing, dated March 15, 2001, was received by respondent UP, this notice set May 10, 2001 as the hearing date for the subject petition.

On or about April 25, 2001, the Village filed its Motion to require the UP to provide a cost estimate of the work to be performed prior to the hearing on May 10, 2001. This motion was received by the UP on or about April 26, 2001.

On April 24, 2001, the hearing examiner issued a ruling requesting that the UP provide cost estimates to all parties at least ten (10) days prior to the hearing set for May 10, 2001 at 9:30 a.m. The hearing examiner's ruling was received by the UP on or about April 26, 2001. During a conference call on or about April 9, 2001 with the staff of the Illinois Commerce Commission, the staff was verbally advised that the UP had not prepared either a design or an estimate for the subject crossing signalization in that the proposed signal modification had not been approved by the Commission and there was no funding source provided to compensate UP for the design and estimation costs.

NOW, THEREFORE, in accordance with Title 83 § 200.410 Of the Illinois Administrative Code, respondent Union Pacific Railroad

Company submits the following as its response to the hearing examiner's ruling requesting the provision of cost estimates to all parties ten (10) days prior to the hearing set for May 10, 2001 at 9:30 a.m. This response is verified by Gerald E. Lienemann, Field Manager, Engineering, for the UP.

1. The UP will need a minimum of ninety (90) days to prepare detailed plans and estimates for construction costs for the proposed project.

2. The preparation of signal design and estimates is costly to the UP and should be paid for by the Village.

3. The preliminary designs filed with the petition are insufficient to prepare a final design with regard to railroad crossing signalization.

4. While the petition does request that the Commission order the UP to prepare design and cost estimates, no such order was received until April 26, 2001. It is impossible for the UP to supply the requested design and estimate prior to the scheduled hearing date of May 10, 2001.

5. The notice of hearing does not ask nor require the UP to prepare a design nor an estimate for the requested signal work.

6. The proposed project will require the installation of a new cantilever. Cantilevers already existed at the other two crossings which have cantilever signalization in the Village of Fox River Grove. Therefore, the design and costs associated with

the two existing cantilever locations would be significantly different than that proposed at Foxmoor Road. In addition, there is language in the Village's motion indicating that a request to relocate the existing signal bungalow will be made. Such a relocation, if so ordered, would significantly alter the designs and cost estimates.

The UP respectfully requests that the hearing examiner and the Illinois Commerce Commission first order that the subject matter of the petition be adopted prior to requiring the UP to utilize its limited resources in preparing designs and estimates for the proposed signalization system.

Further, the UP respectfully requests that it be given, at minimum, ninety (90) days to prepare the requested designs and estimates from the date of the Commission's order adopting such signalization system.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY

By: 

Mack H. Shumate, Jr.,
Senior General Attorney

Mack H. Shumate, Jr.
Union Pacific Railroad Company
101 North Wacker Drive
Suite 1920
Chicago, Illinois 60606
312/853-8455

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VERIFICATION

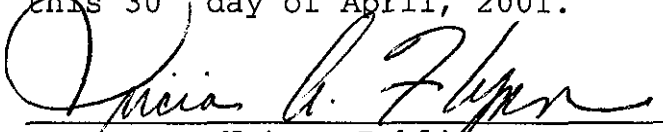
STATE OF ILLINOIS)
) ss:
COUNTY OF COOK)

Gerald E. Lienemann, being first duly sworn on oath, deposes and states that he is the Manager, Field Engineering, for Union Pacific Railroad Company in the foregoing cause; that he has read the foregoing Response to Hearing Examiner's Ruling and that the facts contained therein are true and correct to the best of his knowledge, information and belief.



Gerald E. Lienemann
Manager, Field Engineering
Union Pacific Railroad Company

SUBSCRIBED and **SWORN** to before me
this 30th day of April, 2001.



Notary Public



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No. T01-0016

CERTIFICATE OF SERVICE

T0: Donna **Caton**, Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that he served true and correct copies of the foregoing **RESPONSE TO HEARING EXAMINER'S RULING** on the following named individuals:

Peter M. Rosenthal
Kelly Cleland
ROSENTHAL, MURPHEY, COBLENTZ
& JANEGA
30 North LaSalle Street
Suite 1624
Chicago, Illinois 60602

David W. McKernan
Industry & Public Projects
Union Pacific Railroad Company
210 North 13th Street, Room 1612
St. Louis, Missouri 63103

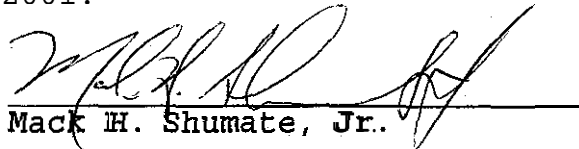
Joseph H. O'Brien,
Review & Examination
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701

Ms. June B. Tate
Illinois Commerce Commission
State of Illinois Building
160 North LaSalle Street
Suite 800
Chicago, Illinois 60601

Mr. Daniel Powers
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701

Mr. John Blair
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701

with proper postage prepaid, and depositing same in the U.S. Mail
Chute located at 101 North Wacker Drive, Chicago, Illinois,
before 5:00 p.m. on April 30, 2001.


Mack H. Shumate, Jr.

Mack I-i. Shumate, Jr.
Union Pacific Railroad Company
101 North Wacker Drive
Suite 1920
Chicago, Illinois 60606

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